

Application No.: 10/591,172  
Reply dated February 16, 2010  
Reply to Office Action of November 16, 2009

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### REMARKS

#### Status of the Claims

After entry of the instant Amendment, claims 2, 4-7, 9, 10, 14 and 15 are pending. Claims 2 and 15 are independent.

Claim 8 has been cancelled and claims 2, 4-7, 9, 10, 14 and 15 have been amended without prejudice or disclaimer of the subject matter contained therein. Claims 2, 4-7, 9, 10, 14 and 15 have been amended as proposed by the Examiner, except that the phrase "phosphate triester linkage" has been replaced with the phrase "phosphodiester linkage." No new matter has been added by amendment to the claims. Reconsideration of this application, as amended, is respectfully requested.

#### Request for Entry of Amendments

At the outset, it is respectfully requested that this Amendment be entered into the Official File in view of the fact that the amendments to the claims automatically place the application in condition for allowance.

In the alternative, if the Examiner does not agree that this application is in condition for allowance, it is respectfully requested that this Amendment be entered for the purpose of appeal.

#### Objection to the Abstract

The Abstract has been objected to as it does not describe all of the reactants necessary to execute the claimed process. Applicants have prepared a substitute Abstract (attached hereto) to obviate this objection. Accordingly, reconsideration and withdrawal of this objection are respectfully requested.

#### Examiner Interviews

Applicants wish to thank the Examiner for the courtesies extended to Applicants' representative during interviews which were conducted November 3, 4, 6 and 9, 2009, attempting to come to an agreement on a proposed Examiner's Amendment to obviate the remaining rejections. Applicants requested a final written Office Action, and the Examiner is thanked for including many of the Examiner's proposed Amendments in the Office Action dated

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November 16, 2009. The claims have been amended in a manner consistent (except for recitation of phosphodiester linkages) with the amendments proposed during the interviews, and are believed to place the application into condition for allowance. Accordingly, reconsideration and allowance of the present application are respectfully requested.

**Rejection Under 35 U.S.C. § 101**

Claims 10 and 14 stand rejected under 35 U.S.C. § 101, as being improper method claims, because the claims refer to the use of elements, rather than positively reciting steps involving the elements.

Applicants have amended method claims 10 and 14, as proposed by the Examiner, to positively recite steps. Thus, Applicants respectfully request that the rejection of claims 10 and 14 under 35 U.S.C. § 101 be withdrawn.

**Rejection Under 35 U.S.C. § 112, Second Paragraph, Indefiniteness**

Claims 2, 4-10, 14 and 15 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. Specifically, the term "acid catalyst" in claim 2 is alleged to be generic to a vast array of compounds. The terms "HOBt-derivative" and "phenol analogue" recited in claims 4 and 7 are alleged to be indefinite, because the terms are not sufficiently defined. Furthermore, the Examiner asserts that claims 2 and 15 fail to completely describe the minimum reactants required to execute the claimed process. Claim 8 has been cancelled and its rejection is therefore moot.

Applicants have amended claims 2, 4-7, 9, 10, 14 and 15, as suggested by the Examiner to obviate their rejection under 35 U.S.C. § 112, second paragraph, except that the phrase "phosphate triester linkage" has been replaced with the phrase "phosphodiester linkage." This phrase is well-known to those of ordinary skill in the art pertaining to phosphoramidite methods for the synthesis of nucleic acid oligomers. Thus, Applicants respectfully request that the rejection of claims 2, 4-7, 9, 10, 14 and 15 be withdrawn.

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### Allowable Subject Matter

The Examiner states that claims 2, 4-10, 14 and 15 would be allowable if rewritten or amended to overcome the rejections under 35 U.S.C. §§ 101 and 112. Claim 8 has been cancelled.

Applicants thank the Examiner for the early indication of allowable subject matter in this application. Claims 2, 4-7, 9, 10, 14 and 15 have been amended as set forth above in order to overcome the rejections under 35 U.S.C. §§ 101 and 112. Consideration and allowance of claims 2, 4-7, 9, 10, 14 and 15 are respectfully requested.

### CONCLUSION

All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding rejections and that they be withdrawn. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Stephanie A. Wardwell, Ph.D., Registration No. 48,025, at the telephone number of the undersigned below to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Director is hereby authorized in this, concurrent, and future replies to charge any fees required during the pendency of the above-identified application or credit any overpayment to Deposit Account No. 02-2448.

Dated: February 16, 2009

Respectfully submitted,

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Attachments: Substitute Abstract

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